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Technology Center 2600

In re Application of
Pekka Isomursu et al.
Application No. 09/183,343
Filed: October 30, 1998
For: COMMUNICATION NETWORK
TERMINAL SUPPORTING A PLURALITY OF
APPLICATIONS

DECISION ON PETITION TO
WITHDRAW HOLDING
OF ABANDONMENT

This is in response to the petition filed March 6, 2001, to withdraw the holding of abandonment of the above-identified application.

This application is in an abandoned status for failure to respond in a timely and effective manner to the Final Office Action mailed on June 16, 2000 which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on January 3, 2001.

Petitioner asserts that the Final Office Action dated June 16, 2000 was not received. In the absence of any irregularity in the mailing of the non-Final Office Action, there is a strong presumption that the non-Final Office Action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-Final Office Action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Final Office Action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Final Office Action on the part of the United States Patent and Trademark Office.

Application No. 09/183,343
On Petition

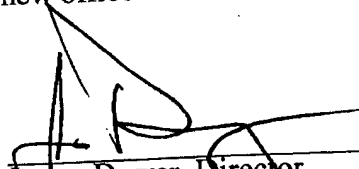
In support of the petition, the petitioner has submitted a copy of the docket records where the non-received Final Office Action would have been entered had it been received, a copy of the manual docket book, a statement from the practitioner, stating that a search of the office, the application file, and docket records indicated that the Final Office Action was not received.

The petitioner has made a sufficient showing of non-receipt of the non-Final Office Action based upon the docket records submitted and upon the statement from the practitioner. Accordingly, the application was not abandoned in fact.

The petition is **GRANTED**.

It should be noted however that while petitioner uses docket number 442-007078-U for several different patent applications, the system used for recording docket numbers by the USPTO only affords a certain number of characters and the distinguishing suffix used by petitioner to differentiate between applications is not recognized. Using the same docket number for several patent applications in the future may contribute to communications mailed by the USPTO being improperly docketed or not docketed at all by petitioner.

The application file is being forwarded to the Technology Center's support staff for mailing of a new non-Final Office Action. The time period for response will be set to run from the date the new office communication is mailed.



James Dwyer, Director
Technology Center 2600
Communications